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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report of the Secretary-General on the situation of human rights in Myanmar, submitted pursuant to General Assembly resolution 56/231

1. The present report is submitted pursuant to paragraph 27 of General Assembly resolution 56/231 adopted on 24 December 2001, entitled "Situation of human rights in Myanmar", in which the Assembly requested me to continue my discussions with the Government of Myanmar in order to assist in the implementation of that resolution and to submit additional reports to the General Assembly during its fifty-sixth session on the progress of these discussions as well as to report to the Assembly during its fifty-seventh session and to the Commission on Human Rights at its fifty-eighth session.

2. As indicated in previous reports, I view the role entrusted to me by the General Assembly to be one of good offices, as distinct from the fact-finding mandate assigned by the Commission on Human Rights to the Special Rapporteur on the situation of human rights in Myanmar. In implementation of this mandate, my Special Envoy for Myanmar, Mr. Razali Ismail, visited Myanmar four times during 2001: from 5 to 9 January, from 1 to 4 June, from 27 to 30 August and from 27 November to 3 December. My Special Envoy undertook two previous trips to Myanmar during 2000.

3. My Special Envoy's primary interlocutors on the government side are: Lieutenant-General Khin Nyunt, Secretary-1 of the State Peace and Development Council (SPDC), the Foreign Minister, U Win Aung, and the Deputy Foreign Minister, U Khin Maung Win. Others whom my Special Envoy has also had discussions with include:

Brigadier-General David Abel, Minister in the Office of the Chairman of the SPDC, U Tinn Win, Minister for Culture and Labour, and Major-General Tin Hlaing, Minister for Home Affairs. During each of his visits, he met separately with the General-Secretary of the National League for Democracy (NLD), Daw Aung San Suu Kyi. My Special Envoy has also visited NLD headquarters to meet with Central Executive Committee members, including its Chairman U Aung Shwe and its Vice-Chairman U Tin Oo, both of whom were released from house arrest shortly before his fifth mission in August. In addition, he has exchanged views with representatives of the ethnic nationalities, the diplomatic corps, the United Nations country team and international non-governmental organizations in Myanmar, including the International Committee of the Red Cross (ICRC).

I. GOOD OFFICES EFFORTS

4. In October 2001, after an interval of six years, the Government and Daw Aung San Suu Kyi resumed talks on national reconciliation. My Special Envoy, whom I appointed in April 2000, has visited Myanmar several times with a view to facilitating, as necessary, dialogue between the two sides, and developing and sustaining the momentum for change that has been generated in this "home-grown" process. The specific details of the process are not known, however, as both sides continue to adhere to an agreement under which the substance of their discussions remains confidential.

5. During his separate discussions with Secretary-1 and Daw Aung San Suu Kyi, my Special Envoy has respected their desire for confidentiality. He has nevertheless emphasized that there is no alternative to the ongoing talks if Myanmar is to achieve national reconciliation and to return to the mainstream of the international community. In addition, my Special Envoy has encouraged both sides to seize the opportunity and work towards achieving national reconciliation and democratization in Myanmar. Moreover, in an effort to build confidence between the two sides, he has recently focused his attention on three subjects: (a) the release of political prisoners; (b) the lifting of the restrictions on Daw Aung San Suu Kyi's movement; and (c) the resumption of normal activities for legal political parties. He has also suggested that the two sides find ways to work together in the area of humanitarian assistance.

6. In his most recent talks with the Government, my Special Envoy reasoned that the imprisonment of those people who are viewed as being only political activists could not but impact negatively on its goal of returning the country to democracy. He added that the Government might wish to consider releasing all political prisoners, noting that amnesty is a concept that has a long tradition in Myanmar and throughout East Asia. He also suggested that the moment was fast approaching for effort to be made to move the national reconciliation process beyond the present confidence-building stage, and to begin a dialogue on substantive political issues. My Special Envoy noted that significant progress in the dialogue would likely result in the stepping up of humanitarian assistance, both from the United Nations and from the international community. He added that, eventually, it might even lead to the resumption of much needed development and economic assistance.

7. In a separate but related development, my Special Envoy has urged the Government on numerous occasions to cooperate with the International Labour Organization (ILO) in finding ways to bring about an effective end to the practice of forced labour in Myanmar.

8. The efforts of my Special Envoy have met with some success. Since January 2001, more than 220 political prisoners have been released from detention. It is also my understanding that 32 NLD township offices in Yangon and Mandalay districts have been allowed to reopen, and that the rules restricting political activities are slowly being relaxed. There is also some reason to believe that both sides are beginning to accept the need to work together to ensure the provision of much needed humanitarian assistance. Possible areas for immediate cooperation include tackling HIV/AIDS and immunization programmes.

9. Mindful of the resolutions adopted by the General Assembly, which support the eventual inclusion of the ethnic nationalities in the national reconciliation process, my Special Envoy has made an effort to explain recent developments in the process to their representatives. He has made it clear to them that while in his considered opinion the time for tripartite dialogue has not yet arrived, their eventual participation in the dialogue will be necessary if a lasting national reconciliation acceptable to all parties is to occur. He has therefore agreed to keep them informed of all relevant developments in the process. For their part, most ethnic nationality leaders have expressed support for the ongoing talks, as well as hope that they will be invited to take part in the process at an appropriate time.

10. Aware of the importance of cooperation to the success of the process, my Special Envoy has made every effort to liaise with the relevant United Nations agencies and programmes. In an acknowledgement of the integral link between the political environment and the human rights situation in Myanmar, he has been in close contact with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, Professor Paulo Sergio Pinheiro. Professor Pinheiro has visited Myanmar three times in the past 12 months (April and October 2001 and February 2002). The international community welcomed his visits, and his forthcoming report to the Commission on Human Rights should make an important contribution to our knowledge of the human rights situation in Myanmar. My Special Envoy has also been in contact with Mr. Juan Somavia, Director-General of ILO, regarding his organization's efforts to find effective means to end the practice of forced labour in Myanmar. Such cooperation is to be warmly welcomed.

II. OBSERVATIONS

11. The national reconciliation process in Myanmar is at a delicate stage. On the one hand, a number of positive developments have taken place since January 2001, which have helped to build confidence between the Government and the NLD/Daw Aung San Suu Kyi. On the other, these efforts to build confidence have not progressed as quickly as many had hoped or expected. Therefore, much more needs to be done over the next 12 months to make the process irreversible. Specifically, as my Special Envoy has suggested, there is a clear need to move the national reconciliation process from the present confidence-building stage and to begin dialogue on substantive political issues.

12. I urge the Government of the Union of Myanmar to find quickly an appropriate way to release all remaining political prisoners, especially those members of the Parliament elected in 1990. Connected to this, it is my hope that the ongoing talks between the two sides will soon lead to the restoration of rights for Daw Aung San Suu Kyi so that she may conduct normal activities as the leader of a lawful political party. The right of freedom of activity for all

legitimate political parties, including the NLD, should also be restored at the earliest possible date. Movement in these three areas, moreover, should pave the way for, or could even run parallel to, discussions between the Government and Daw Aung San Suu Kyi on the transition to democracy.

13. In advocating such a course of action, the United Nations is mindful of the need to ensure that the transition to democracy takes place in an orderly manner, so that Myanmar's stability is not endangered. Experience suggests that the most sustainable and stable systems of governance are those that are flexible enough to accommodate diverse opinions in periods of great change. An orderly transition is not necessarily one that is managed closely from the centre or by one political group. Rather, such transitions occur when all those participating in the process agree on a common agenda, objectives and rules. In their efforts to bring about a national reconciliation acceptable to Myanmar, I therefore urge all those parties engaged in the process to embrace these concepts in the year ahead.

14. The United Nations remains committed to assisting the people of Myanmar to achieve progress and social viability in a democratic framework, since this is their inalienable right. In helping to facilitate this objective, I am grateful for the consistent support that a number of interested Member States, both from within and outside the region, have extended to my Special Envoy's mission of good offices. I am confident they will continue to be just as steadfast and as forthcoming in their support. For my part, I will continue to do my utmost to assist the national reconciliation process in Myanmar in the year ahead.

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